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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,306	07/10/2003	Kenji Niwa	26A-007	1628
23400	7590	07/14/2004		
POSZ & BETHARDS, PLC 11250 ROGER BACON DRIVE SUITE 10 RESTON, VA 20190			EXAMINER GUTMAN, HILARY L	
			ART UNIT 3612	PAPER NUMBER

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/616,306	NIWA ET AL.
Examiner	Art Unit	
Hilary Gutman	3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 20 May 2004.  
 2a) This action is **FINAL**.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-26 is/are pending in the application.  
 4a) Of the above claim(s) 6, 11, 15-18 and 20-26 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5 and 13 is/are rejected.  
 7) Claim(s) 7-10, 12, 14 and 19 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 10 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 7/10/03.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Species A in the reply filed on 5/20/04 is acknowledged.

2. Claims 6, 11, 15-18, and 20-26 are hereby withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/20/04.

### ***Priority***

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Specification***

4. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

5. The disclosure is objected to because of the following informalities:

On page 1, line 13, "an" should be "a".

On page 12, line 28, "14" should be deleted.

Appropriate correction is required.

***Claim Objections***

6. Claims 7 and 12 are objected to because of the following informalities:

In claim 7, lines 10 and 11, "it" should apparently be "the positioning member" in both occurrences for clarity.

In claim 12, line 3, "it" should apparently be "the armrest" for clarity.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-5 and claim 13 are rejected under 35 U.S.C. 102(b) as being anticipated by JP '073.

JP '073 discloses a console box mounted on a vehicle (Figure 10), comprising: a box main body 5; first and second sidewalls 7 that are arranged in a lateral direction of the vehicle and face each other, wherein the box main body is located between the first and second sidewalls, wherein each of the first and second sidewalls has a guide portion 9 (Figure 1 and 6-7) extending in a moving direction of the vehicle, and wherein the guide portions are formed in facing surfaces of the first and second sidewalls (Figure 7); and an armrest 8 that is located above the box main body and between the first and second sidewalls, wherein the armrest has a first surface facing the first sidewall and a second surface facing the second sidewall, wherein an engaging portion, generally 10, is provided on each of the first and second surfaces, and each engaging portions slidably

engaged with the corresponding guide portion such that the armrest is supported between the first and second sidewalls and slidable in the moving direction of the vehicle.

With regard to claim 2, the box main body has an opening, wherein the armrest slides between a closing position (Figure 1) for closing the opening and an opening position (Figure 3) for opening the opening, thereby functioning as a lid for selectively opening and closing the opening.

With regard to claim 3, the armrest slides forward, thereby moving toward the closing position, and slides rearward, thereby moving toward the opening position.

With regard to claim 13, the armrest can be moved from the opening position to a retreat position (Figure 4), at which the armrest is generally off a position above the box main body.

With regard to claim 4, the guide portions are grooves, and the engaging portions are projections.

With regard to claim 5, the engaging portions are one of a plurality of engaging portions (provided along a length of the console box) provided on the first surface and one of a plurality of engaging portions (provided along the length of the console box) provided on the second surface.

### *Claim Rejections - 35 USC § 103*

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '417 in view of JP '073.

JP '417 discloses a console box, comprising: a box main body 5; first and second sidewalls 1 that face each other, wherein the box main body is located between the first and second sidewalls, wherein each of the first and second sidewalls has a guide portion (Figure 8) extending in a moving direction of the vehicle, and wherein the guide portions are formed in facing surfaces of the first and second sidewalls; and an armrest 5 that is located above the box main body and between the first and second sidewalls, wherein the armrest has a first surface facing the first sidewall and a second surface facing the second sidewall, wherein an engaging portion 4a is provided on each of the first and second surfaces, and each engaging portion slidably engages with the corresponding guide portion such that the armrest is supported between the first and second sidewalls and slidable in the moving direction of the vehicle.

With regard to claim 2, the box main body has an opening, wherein the armrest slides between a closing position for closing the opening and an opening position for opening the opening, thereby functioning as a lid for selectively opening and closing the opening.

With regard to claim 4, the guide portions are grooves, and the engaging portions are projections.

With regard to claim 5, the engaging portions are one of a plurality of engaging portions (continuously provided along the length of the sidewalls) provided on the first surface and one of a plurality of engaging portions provided on the second surface.

JP '417 lacks the positioning of the console box within a vehicle.

JP '073 teaches a console box positioned (Figure 10) longitudinally within a vehicle between the front driver and front passenger seats.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have positioned the console box of JP '417 within a vehicle in a similar manner as taught by JP '073 in order to best allow an occupant within the vehicle to easily utilize the console box effectively.

With regard to claim 3, the armrest slides forward, thereby moving toward the closing position, and slides rearward, thereby moving toward the opening position.

#### *Allowable Subject Matter*

12. Claims 7-10, 12, 14, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

15. **Any response to this action should be mailed to:**

Assistant Commissioner for Patents

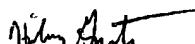
Washington, D.C. 20231

**or faxed to:**

(703) 872-9326, (for formal communications intended for entry)

**or:**

(703) 746-3515, (for informal or draft communications, please clearly

 label "PROPOSED" or "DRAFT").

Hilary Gutman

July 7, 2004